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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,660	01/26/2004	Soon-hac Hong	P2067US	8800

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EXAMINER	
WIENER, ERIC A	

ART UNIT	PAPER NUMBER
2179	

MAIL DATE	DELIVERY MODE
10/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/764,660	HONG, SOON-HAC	
	Examiner	Art Unit	
	Eric A. Wiener	2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 August 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the following communications: Amendment filed on 8/8/2007.

This action is made final.

2. Claims 1 – 25 have been presented for examination based on applicant's disclosure filed on 1/26/2004, claiming priority to foreign application KR 2003-8140 and the date 2/10/2003. Claims 1 – 25 are pending. Claims 1, 12, and 20 are the independent claims. Claims 1, 12, and 20 are the amended claims. Claims 1 – 25 have been rejected by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 20 – 24 are rejected under 35 U.S.C. 102(a) as being anticipated by Sugimoto (US 6,829,009 B2).

As per independent claim 20, Sugimoto discloses *a digital camera capable of controlling an adaptive menu, the camera comprising:*

- *an image photographing portion to photograph an object* (column 3, lines 7 – 19);

- *an image processing portion to perform predetermined image processing and output the processed digital image data* (column 4, lines 31 – 62);
- *a recording portion to store the digital image data* (column 4, lines 52 – 62);
- *a display portion to display the menu items in a display order* (column 6, lines 6 – 19) *and activate the menu items with one menu item initially active* (column 7, liens 4 – 7), where it has been interpreted that having the cursor initially set to a menu item is equivalent to said menu item being initially active.
- *an operation portion to select a menu item displayed on the display portion* (column 6, lines 20 – 25);
- *a storage portion which is non-volatile and stores number of uses values of the menu items* (Figure 4, "68: Display Memory"), wherein the fact that the CPU and display setting processing block communicate with the display memory indicates that said display memory is the storage portion that stores the values, order, and settings pertaining to the menu display;
- *a plurality of operation modes wherein one of said operation modes is in use* (column 3, lines 51 – 57); *and*
- *a control portion to set at least one of either the display order of the menu items or the initially active menu item, according to the operation mode in use and the number of uses of the menu items* (column 5, line 53 – column 6, line 5), wherein the fact that "the operation block 70 includes... the mode dial 30" and that "the CPU 64 can also change the display order of the menu items on the screen according to a command from the operation block 70" means that the

display order can be changed according to an operation mode processed by the operation block.

As per claim 21, and taking into account the rejection of claim 22, Sugimoto further discloses that *the operation portion comprises directional movement buttons to allow selection of the menu items displayed on the display portion to the upper, lower, left, and right sides of the initially active menu item and a selection button to select the menu item* (column 6, lines 6 – 25).

As per claim 22, and taking into account the rejection of claim 23, Sugimoto further discloses that *the control portion changes the display order of the menu items according to the size order of the number of uses values* ().

As per claim 23, and taking into account the rejection of claim 22, Sugimoto further discloses that *the control portion changes the display order of the menu items according to the size order of the number of uses values only when a menu item's number of uses value is greater than a reference number* (column 8, lines 3 – 8).

As per claim 24, and taking into account the rejection of claim 22, Sugimoto further discloses that *the control portion determines the initially active menu item to be the menu item with the largest number of uses value* (column 7, lines 34 – 43).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1 – 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugimoto (US 6,829,009 B2) in view of Hong (KR 2000-0030838).

As per independent claim 1, Sugimoto discloses *a method of controlling a menu of a digital camera with a plurality of operation modes wherein one of said operation modes is in use* (column 3, lines 51 – 57)*, the method comprising:*

- *comparing a number of uses value for each menu item* (column 8, lines 3 – 6);
- *determining a display order of the menu items according to the operation mode in use and the result of the comparison* (column 8, lines 6 – 8 and column 5, line 53 – column 6, line 5), wherein the fact that "the operation block 70 includes... the mode dial 30" and that "the CPU 64 can also change the display order of the menu items on the screen according to a command from the operation block 70" means that the display order can be changed according to an operation mode processed by the operation block*; and*
- *displaying the menu items according to the display order* (column 8, lines 6 – 8).

Sugimoto does not explicitly disclose that the number of uses value is compared to a reference value. Nevertheless, in an analogous art, Hong discloses *comparing a number of uses value to a reference number* (Constitution, lines 1 – 4).

Thus, it would be obvious to incorporate Hong's teaching into Sugimoto's invention to determine a display order of menu items from a comparison of the frequency of use to a reference value. The modification would be obvious, because it is only a slight variation of Sugimoto's present invention, which intends to cover all modifications falling within the spirit of

the invention (column 9, lines 50 – 53). In addition, Sugimoto already discloses a reference value ("change frequency count") that is examined in relation to frequency values (column 8, lines 30 – 35). Therefore, the ability to use a reference value along with the frequency values would be an obvious modification to Sugimoto's present invention.

As per claim 2, Sugimoto and Hong substantially disclose the method of claim 1. In addition, Sugimoto further discloses *determining whether a menu item is selected by the user among the displayed menu items, increasing the number of uses value for the selected menu item, and storing the number of uses value* (column 8, lines 3 – 6).

As per claim 3, Sugimoto and Hong substantially disclose the method of claim 1. In addition, Hong further discloses that *during the display order determination step, the set display order is not changed when a menu item having the number of uses which is greater than the reference number does not exist* (Constitution, lines 1 – 4).

As per claim 4, Sugimoto and Hong substantially disclose the method of claim 1. In addition, Hong further discloses *changing a menu display when a menu item has a number of uses value greater than the reference number* (Constitution, lines 1 – 4).

In addition, Sugimoto discloses that *in changing the menu display, the display order of the menu items is changed according to the order of the number of uses* (column 8, lines 6 – 8).

As per claim 5, Sugimoto and Hong substantially disclose the method of claim 4. In addition, Hong further discloses that *during the display order determination step, the menu items with number of uses greater than the reference number are displayed first according to the order of the number of uses and the menu items with number of uses less than the reference number are displayed without a change in the display order adjacent to the menu items with number of uses*

greater than the reference number (Constitution, lines 1 – 4).

As per claim 6, Sugimoto and Hong substantially disclose the method of claim 1. In addition, Hong further discloses that *the reference number can be set by the user* (Constitution, lines 1 – 4).

As per claim 7, Sugimoto and Hong substantially disclose the method of claim 1. In addition, Sugimoto further discloses that *the reference number is preset to a default value* (Constitution, lines 1 – 4), wherein the initial setting of numbers to default values is well known in the art and it is obvious that the reference number would be preset to a default value before being changed by a user.

As per claim 8, Sugimoto and Hong substantially disclose the method of claim 1. In addition, Sugimoto further discloses that *the reference number and menu order may be different for different operating modes* (column 2, lines 1 – 8).

As per claim 9, Sugimoto and Hong substantially disclose the method of claim 1. In addition, Sugimoto further discloses that *the first displayed menu item is initially active during the display operation* (column 7, lines 50 – 51), where it has been interpreted that having the cursor initially set to a menu item is equivalent to said menu item being initially active.

As per claim 10, Sugimoto and Hong substantially disclose the method of claim 1. In addition, Sugimoto further discloses that *the stored number of uses values may be altered by the user* (column 8, lines 3 – 6).

As per claim 11, Sugimoto and Hong substantially disclose the method of claim 2. In addition, Sugimoto further discloses that *the menu order is immediately updated after a menu item is selected* (column 8, lines 19 – 24).

As per independent claim 12, Sugimoto discloses *a method of controlling a menu of a digital camera with a plurality of operation modes wherein one of said operation modes is in use* (column 3, lines 51 – 57), *the method comprising:*

- *comparing the number of uses of the menu items to be displayed* (column 7, lines 38 – 43);
- *determining whether a menu item will be initially active from among the menu items to be displayed according to the operation mode in use and the result of the comparison step* (column 5, line 53 – column 6, line 5 and column 7, lines 34 – 43), where it has been interpreted that having the cursor initially set to a menu item is equivalent to said menu item being initially active. In addition, the fact that "the operation block 70 includes... the mode dial 30" and that "the CPU 64 can also change the display order of the menu items on the screen according to a command from the operation block 70" means that the display order can be changed according to an operation mode processed by the operation block.
- *displaying the menu items and activating a menu item from among the displayed menu items* (column 3, line 45 – column 5, line 12 and column 7, lines 47 – 51), wherein selecting has been interpreted as equivalent to activating.

Sugimoto does not explicitly disclose that the number of uses value is compared to a reference value. Nevertheless, in an analogous art, Hong discloses *comparing a number of uses value to a reference number* (Constitution, lines 1 – 4).

Thus, it would be obvious to incorporate Hong's teaching into Sugimoto's invention for the same reasons as disclosed in the rejection of claim 1.

As per claim 13, Sugimoto and Hong substantially disclose the method of claim 12. In addition, Sugimoto further discloses *determining whether a menu item is selected by the user among the displayed menu items, increasing the number of uses value of a selected menu item when the menu item is selected, and storing the number of uses value* (column 7, lines 38 – 43).

As per claim 14, Sugimoto and Hong substantially disclose the method of claim 12. In addition, Hong further discloses that *the step of determining whether a menu item will be initially active further comprises: when there is no number of uses value of a menu item greater than the reference number, not changing which menu item is initially active* (Constitution, lines 1 – 4).

As per claim 15, Sugimoto and Hong substantially disclose the method of claim 12. In addition, Hong further discloses *changing a menu display when a menu item has a number of uses value greater than the reference number* (Constitution, lines 1 – 4).

In addition, Sugimoto discloses that *the changing of the menu display includes setting the menu item having the largest number of uses value as the initially active menu item* (column 7, lines 34 – 43).

As per claim 16, Sugimoto and Hong substantially disclose the method of claim 12. In addition, Hong further discloses that *the reference number can be set by the user* (Constitution, lines 1 – 4).

As per claim 17, Sugimoto and Hong substantially disclose the method of claim 12. In addition, Hong further discloses that *the reference number is preset to a default value* (Constitution, lines 1 – 4), wherein the initial setting of numbers to default values is well known

in the art and it is obvious that the reference number would be preset to a default value before being changed by a user.

As per claim 18, Sugimoto and Hong substantially disclose the method of claim 12. In addition, Sugimoto further discloses that *the reference number is different for different operating modes* (column 2, lines 1 – 8).

As per claim 19, Sugimoto and Hong substantially disclose the method of claim 12. In addition, Sugimoto further discloses that *the stored number of uses values may be altered by the user* (column 7, lines 38 – 43).

As per claim 25, and taking into account the rejection of claim 20, Sugimoto further discloses that *the control portion changes the menu display by setting the initially active menu item according to the size of the number of uses value* (column 7, lines 34 – 43).

Sugimoto does not explicitly disclose *changing a menu display only when a menu item's number of uses value is greater than a reference number*. Nevertheless, in an analogous art, Hong discloses *changing a menu display only when a menu item's number of uses value is greater than a reference number* (Constitution, lines 1 – 4).

Thus, it would be obvious to incorporate Hong's teaching into Sugimoto's invention for the same reasons as disclosed in the rejection of claim 1.

Response to Arguments

7. Applicant's arguments filed on 8/8/2007 have been fully considered but are not persuasive.

8. The applicant has argued that neither Sugimoto nor Hong determine the display order of menu items according to operation mode. In response to this argument, please refer to the rejections of claims 1, 12, and 20 *supra*.

Conclusion

9. It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006,1009, 158 USPQ 275, 277 (CCPA 1968)).

10. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The cited documents represent the general state of the art.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Wiener whose telephone number is 571-270-1401. The examiner can normally be reached on Monday through Thursday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric Wiener
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10/9/07